



Division of Ecological and Water Resources

**1200 Warner Road
St. Paul, MN 55106**

November 1, 2019

David Fellon
Empire Builder Investments, Inc.
21778 Highview Avenue
Lakeville, MN 55044

Bruce Markgren
Cooper Engineering Company, Inc.
2600 College Drive, P.O. Box 230
Rice Lake, WI 54868

RE: DNR Preliminary Well Construction Assessment; Tracking No. 2019-3276; T112N-R18W-S5 NESW, T112N-R18W-S5 SESW; Dakota County

Dear Mr. Fellon and Mr. Markgren,

This letter constitutes the Minnesota Department of Natural Resources' preliminary assessment of your well proposal, based on the information you have provided. Nothing in this letter constitutes an authorization to drill a well or appropriate water. Well drilling is regulated by the Minnesota Department of Health. Appropriation of water requires a DNR water appropriation permit, for which you have not yet applied. The preliminary well assessment provides you with information you can use in deciding whether to proceed further with your proposal. The DNR's preliminary assessment may change if more information becomes available or the proposed details change.

We have reviewed your proposal for new wells based on the information you have provide regarding: proposed location, depth, volume of water requested and pumping rate. Your proposal has been reviewed for compliance with Minnesota law and for potential impacts to other users and the resources of concern listed on the attached sheet. If the details of your proposal change, you will need to submit a new assessment application.

The Minnesota DNR is required to manage the state's water resources for current and future generations. Based on our preliminary findings, the DNR does not believe that an appropriation of this nature is likely to meet the sustainability requirements in Minnesota Statute. We have determined that it is unlikely we would issue a permit to appropriate water, and we do not recommend that you proceed further with this proposed project. Our preliminary findings described below provide more information about our assessment.

Preliminary Findings:

1. You have proposed two or more connected wells located in Randolph Township and the City of Randolph in Dakota County. Your estimated combined maximum pumping rate is 2,600 gallons per minute and your estimated maximum volume of water use is 500 million gallons per year. Based on telephone and email conversations with Mr. Markgren and a review of the website Mr. Markgren referenced (watertrain.us), your proposed use of water is the transfer via rail of potable water in bulk for sale to customers in the western United States. It is unlikely that your project could be authorized under Minnesota law. Furthermore, in accordance with the Upper Mississippi River Basin Charter, any proposal for diversion of water out of the basin that would exceed 5 million gallons per day average in any 30-day period requires notification and consultation between the following states: Illinois, Iowa, Minnesota, Missouri and Wisconsin.
2. Your application identified the Mt. Simon-Hinckley aquifer as the targeted aquifer for the proposed wells. Minnesota Statutes, section 103G.271 forbids the DNR from issuing permits to appropriate water from the Mt. Simon-Hinckley aquifer in a metropolitan county, unless (1) the appropriation is for potable water use, (2) there are no feasible or practical alternatives to this source, and (3) a water conservation plan is incorporated with the permit. The metropolitan counties include Anoka, Carver, Dakota, Hennepin, Ramsey, Scott and Washington.
3. In an email dated October 23, 2019, Mr. Markgren indicated that the proposed project would appropriate up to 40.5 million gallons of water per month. Minnesota Rules, chapter 4410 requires DNR to prepare an Environmental Assessment Worksheet for new projects that would appropriate an average of 30 million gallons of water per month or more for commercial or industrial purposes. We are hereby notifying you that your current proposal exceeds the threshold for a mandatory Environmental Assessment Worksheet. Upon completion of the EAW, the DNR would determine whether the project would require preparation of an Environmental Impact Statement (EIS).

Should your project involve out-of-state diversion of 60 million gallons of water or more in any 30-day period, preparation of an EIS would be mandatory.

No permits or other final decisions for your water use project may be issued until the required environmental review processes are completed.

4. For proposed projects appropriating more than 100 million gallons per year, Minnesota Statutes, section 103G.301 requires the DNR to assess service fees to recover the reasonable costs to the DNR for project evaluation and environmental review. We are hereby notifying you that your project is subject to this statutory requirement. Consequently, if you submit a water appropriation application, the review, evaluation and analysis of your proposed project will be subject to professional service fees. Fees would be charged for services including staff salary (currently \$94/hour), mileage costs and other expenses.

5. Minnesota Statutes, section 103G.287 requires that use of water is sustainable to supply the needs of future generations and does not cause harm to ecosystems, degrade water quality, or reduce water levels beyond the reach of public water supply and private domestic wells.

Conclusion:

Based on our preliminary findings of your well drilling and water use proposal, we have determined it is unlikely we would issue a permit to appropriate water. Therefore, we do not recommend that you proceed with further work on this proposed project.

If you have any questions or if you would like to meet with DNR staff to discuss your proposal, please contact me at 651-259-5732 or daniel.scollan@state.mn.us.

Sincerely,



Dan Scollan
Hydrologist

Enclosures

CC: DNR Ecological and Water Resources Division
Central Region
Conservation Assistance and Regulations Section
Inventory, Monitoring, and Analysis Section
Metropolitan Council
MDH Well Management Program
MDH Source Water Protection Program
Dakota County Environmental Resources Department
City of Randolph

Equal Opportunity Employer

PRELIMINARY WELL CONSTRUCTION ASSESSMENT CHECKLIST

**Re: DNR Well Construction Preliminary Assessment; Tracking No. 2019-3276; T112-R18W-S5 SW;
Dakota County.**

Assessment Factors

The factors checked are of concern in the vicinity of your proposed well location and use of water:

- ☐ Calcareous Fens
- ☒ Trout Streams
- ☒ Lakes, Rivers, and Wetlands
- ☒ Well Interferences
- ☒ Known Groundwater Users
- ☐ Public Lands
- ☒ Drinking Water Protection Areas
- ☒ Contamination Sites
- ☐ Special Well and Boring Construction Areas
- ☒ Rare Species and Native Plant Communities
- ☐ Groundwater Management Areas